App. F. IX-4

Previous References

1931.32 (Law)

File No. 52.31

Serial Nos. 1–4

Later References

(10)

General and Revenue Secretariat.

Serial Nos. Four

Part B for October 1931

SUBJECT.

Re Invoice No. 3 of 28.10.31 Ex Bellamy to Rhyme.

---

(1) To The Traffic Manager Mys Rys Mysore

No. P 1912 dt 3.10-31

States that Rys. cannot be held responsible for the damage caused on account of damp and rain.

M. Asst Agt
5-XI-31

General and Revenue Secretariat

File No. 52 of 1931.

Serial No.	
1	Letter No. C.T. 1656/30 dated 8.9.31 from the Tr. Manager Mysore soliciting opinion re: the liability of the Railway for the goods damaged in Inv. No. 3 of 28/10/30 – Ex: Bellary to Mysore. The Consignment consisted of 21 bags of Toordhal. The damage caused to the goods by rain is said to be purely an 'act of God'. Tr. Manager requests legal opinion to be given in such cases. Subs for favour of opinion. TSD 10/9 Please request the Traffic Manager to send in the records connected with this Invoice & containing the risk note executed by the party being so as to facilitate legal opinion given in the matter MP 22/9/31 Dft Subs according TSD 22/9 Issue MP 22/9 Issued No. P. 1766 dt 24.9.31. C. No. C.T. 1656/30 dated 26.9.31 from the Tr. Manager enclosing the record relating to the case Kind ref^ce is invited to para 1 Supra Copy of Rule guiding risk note 'A' is necessary for giving opinion in the matter TSD 29/9

TYPING SECTION
22 SEP. 1931
GENL. & REV. SECTT.

Sub A
TSD 22/9
MP 22/9

NOTE – Contn. Sheet

WD 02553—50,000—GPB—8-7-30

2-

File No. of 193 | General and Revenue Secretariat

In this case the goods - bags of Toor dhal - were sent under Risk note 'A' which makes the Ry Admn not responsible for the condition of the goods in which they may be delivered to the consignee at destination and for any loss arising from the same - The only ground on which liability for damages can be imposed on the Railway in such cases is wilful negligence on the part of the Ry and the Traffic Manager in the P.V.D is decidedly of opinion that there is in this case no wilful negligence -

The case is thus identical with that reported in 1931 cal 489 where it is held that in such circs, the Ry is not liable for damage caused on account of damp & rain -

If appd the Traffic Manager will be informed accordingly

(Sd) [illegible]
30/9

(Sd) [illegible]
II Member)

GENERAL SECRETARY

14/3

6/10

1/10

1/10

1/10

1424 ✓ 3

App. F. III—2]

General and Revenue Secretariat | File No. | of 193 .

Serial No.

Dfts. rept. subs

TSD 3/10

Issue. DDP 3/10

To

The Traffic Manager Mysore Rly

No. P. 1912 dated 3.10.31 informing that Rly. administration is not responsible for the condition of the goods in which they may be delivered at the destination or for any loss arising therefrom, under risk note 'A'

B

TSD 5/10.

DDP 5/10

TYPING SECTION * 3. OCT. 1931 * GENL. & REVENUE SECT.

NOTE—Contn. Sheet

WD 02553—50,000—GPB—8-7 30

MRM T 239-2400-27-2-30

12902/P/31

T. 34A.

MYSORE RAILWAYS

No. C.F. 1456/30.

TRAFFIC MANAGER'S OFFICE,

Mysore, 8th September 1931.

GENERAL SECRETARIAT
To
10 SEP. 1931
No. [illegible]

The Secretary to Government
in charge of the Law Section
of the Secretariat, Bangalore.

Law S-2-31-1

Dear Sir,

Re. Inv. No. 3 of 28/10/1930 ex Bellary to Mysore.
21 bags toor dhall. 8 bags damaged.

I beg to state that the above consignment is booked from Bellary, a station on the M. & S.M. Railway, to this Railway via Bangalore City.

2) The consignment left Bangalore City in good condition loaded in a covered iron wagon with water tight roof.

3) The consignment is booked under risk note "A" for bagging single and new liable for damage and dropping. This risk note covers only the condition on which the bags were accepted by the Railway for despatch and delivery.

4) Meanwhile, due to heavy rain in transit between Bangalore City and Mysore, the rain water rushed in by the wind through the wagon door crevices and partly damaged the 8 bags toor dhall which were loaded near the wagon door.

5) The damage so caused was not due to any careissness or misconduct on the part of the Railway. The sudden rain being purely an "Act of God".

6) Under the above circumstances, I request you to kindly give your opinion re. the liability of the Railway on such cases. A very early reply is requested.

Yours faithfully

Traffic Manager.

Tpr.

Appendix F G—1]

SUBJECT .....

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Section Local

File No. 52-31

Serial No. 2

Diary No. of letter replied to .....

No. 1766-G

To The Trafft. Manag
Mys. Rys.

General and Revenue Secretariat

( )

the *193*

Sir

With reference to

Date of issue 24/9/31

your letter no. C.T. 1456/30 dated
8th Sept 1931 ~~forwarding legal~~
~~opinion~~ re: Inv no. 3 of 20 10.30
Ep. Bellary to Mysore 24 bags Tow
Shell. I am directed to
request that the entire records
relating to the Case may
kindly be sent so that materi
points contained therein may
be ascertained and legal opinio
given thereon.

I have etc

Signed by Mr Ray

List of enclosures .....

Copied by .....

Examined by .....

SD 24/9

pp Secy for Genl Secy

3

23rd September 1931

The

The Traffic Manager,
Mysore Railways.

With reference to your letter No.C.F.1456/30 dated 8th September 1931 re: Inv.No.3 of 28-10-30 Ex. Bellary to Mysore, 4 bags Toor Dhall, I am directed to request that the entire records relating to the case may kindly be sent so that material points contained therein may be ascertained and legal opinion given thereon.

I have the honor to be,
Sir,
Your most obedient servant,

General Secretary to Government.

S.R.-2

BY REGISTERED POST AND ACKNOWLEDGMENT DUE.

MYSORE RAILWAYS

Tel. Address "TRANSFER"

All communications should be addressed by TITLE and not by NAME

TRAFFIC MANAGER'S OFFICE,

Mysore, 26th September *19* 31

No. C.F. 1456/30.

To

The General Secretary
to the Government of His Highness
the Maharaja of Mysore,
"Law Section", General & Revenue
Secretariat, Bangalore.

GENERAL SECRETARY
29 SEP 1931

Dear No-Sir,

Your letter No. P. 1766 Law 52.31-2 of
24th September 1931.

I beg to send you herewith this office file of papers containing 22 pages for your information as desired.

Kindly let me have the legal opinion on the matter.

Yours faithfully,

For Traffic Manager.

Tpr. (Encs. 1 file of 22 pages)

Appendix F G—1]

SUBJECT .....

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Section L

File No. 5 [illegible] 31

Serial No. 15

Diary No. of letter replied to .....

No. 1912 Mys

To

The Traffic Manager.
Mys. Rys. Mysore

General and Revenue Secretariat

( )

the *193*

Sir,

Date of issue 31/10/31

With reference to the Correspondence ending with your letter No. C.T. 1456/30 dated 26th Sept. 19 re: Inv. No. 3 of 28.10.30 Ex Bellary to Mysore, I am directed to state that since the goods were sent under Risk note 'A' which makes the Rly. Administration not responsible for the Condition of the goods in which they may be delivered to the Consignee at the destination or for any loss arising therefrom, ~~and~~ ~~the Railway have been~~ since no [illegible]

Signed by Mr May

List of enclosures .....

Copied by .....

Examined by .....

the only ground on which liability for damages can be imposed on the Railway in such cases is wilful negligence on ~~the part of the Railway or its part~~ the part of the Railway or its servants. Since you are decidedly of opinion that there has been no such negligence in this case, I am to state that ~~the Railway is not liable for damage caused on account of damp and rain~~ the Railways cannot be held responsible for the damage caused on account of damp & rain. (Vide All India Reporter 1931 Calcutta page 489.)

The records sent with your letter are herewith returned.

I have etc

FSD
3/1

DMP for Sec'y
3/10

7

3rd October 1931

The

The Traffic Manager,
Mysore Railways, Mysore.

With reference to the correspondence ending with your letter No.C.F.1456/30 dated 26th September 1931 regarding Inv.No.3 of 28th October 1930 Ex Bellary to Mysore, I am directed to state that since the goods were sent under risk note 'A' which makes the Railway Administration not responsible for the condition of the goods in which they may be delivered to the consignee at the destination or for any loss arising therefrom the only ground on which liability for damages can be imposed on the Railway in such cases is wilful negligence on the part of the Railway or its servants. Since you are decidedly of opinion that there has been no such negligence in this case, I am to state that the Railways cannot be held responsible for the damage caused on account of damp and rain (Vide All India Reporter 1931 Calcutta page 489)

The records sent with your letter are herewith returned.

I have the honor to be,

Sir,

Your most obedient servant.

MP

for General Secretary to Government.

TSD

B.h.M.